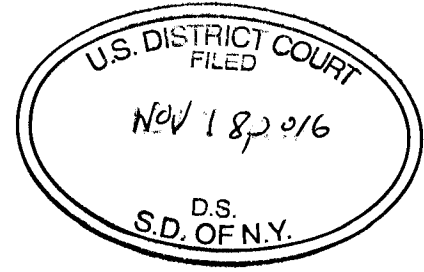


DOC # 5

UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
DISTRICT OF NEVADA
LLOYD D. GEORGE U.S. COURTHOUSE
333 LAS VEGAS BOULEVARD SOUTH
LAS VEGAS, NEVADA 89101
(702) 464-5400



LANCE S. WILSON
DISTRICT COURT EXECUTIVE/CLERK

CYNTHIA JENSEN
CHIEF DEPUTY CLERK, LAS VEGAS

JAKE HERB
CHIEF DEPUTY CLERK, RENO

November 14, 2016

Clerk, U.S. District Court
Southern District of New York
500 Pearl St
New York, NY 10007
CriminalTransfer@nysd.uscourts.gov

RE: USA v. Khalil EVANS
Your Case No. 16mag6680
Our NVD Case No. 2:16-mj-00711-VCF

Dear Clerk:

Please be advised that the above-referenced defendant was arrested in the District of Nevada (Las Vegas) on a warrant issued by the Southern District of New York and appeared before The Honorable Cam Ferenbach, United States Magistrate Judge, on October 19, 2016.

The Defendant has been detained and remanded to the custody of the United States Marshal for transport to the Southern District of New York. Enclosed are all documents completed in this district.

Thank you.

LANCE S. WILSON, Clerk
United States District Court

/s/ M. Morrison
Deputy Clerk

Enclosures

**United States District Court
District of Nevada (Las Vegas)
CRIMINAL DOCKET FOR CASE #: 2:16-mj-00711-VCF-1
*Internal Use Only***

Case title: USA v. Evans

Date Filed: 10/19/2016

Other court case number: 16mag6680 Southern District of New
York

Assigned to: Magistrate Judge
Cam Ferenbach

Defendant (1)

Khalil Evans

represented by **Thomas F. Pitaro**
601 Las Vegas Blvd. South
Las Vegas, NV 89101
702-382-9221
Fax: 702-382-9961
Email: kristine.fumolaw@gmail.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Pending Counts

None

Disposition

**Highest Offense Level
(Opening)**

None

Terminated Counts

None

Disposition

**Highest Offense Level
(Terminated)**

None

Complaints

Rule 5

Disposition

Plaintiff

USA

represented by

Kilby C. Macfadden

U.S. Attorney

501 Las Vegas Blvd. South

Suite 1100

Las Vegas, NV 89101-

702-388-6336

Email: Kilby.macfadden@usdoj.gov**LEAD ATTORNEY****ATTORNEY TO BE NOTICED**

Date Filed	#	Page	Docket Text
10/19/2016	<u>1</u>	4	*SEALED* SEALED Rule 5(c)(3) Documents Received as to Khalil Evans. Documents received from Southern District of New York include SEALED Complaint. (MMM) (Entered: 10/19/2016)
10/19/2016	2	10	MINUTES OF PROCEEDINGS – Initial Appearance in Rule 5(c)(3) Proceeding as to Khalil Evans held on 10/19/2016 before Magistrate Judge Cam Ferenbach. Crtrm Administrator: <i>J. Ries</i> ; AUSA: <i>Kilby MacFadden</i> ; Def Counsel: <i>Dustin Marcello for Thomas Pitaro</i> ; Court Reporter/FTR #: 3:33 – 3:40; Courtroom: 3D; Defendant is present in custody. ORDERED that the complaint is UNSEALED. Defense counsel retained. Waiver of Identity Hearing filed. ORDERED defendant identified as named defendant in the complaint and is held to answer in the Southern District of New York. Government seeks detention and the defendant requests the detention hearing be held in the Southern District of New York, which is GRANTED. The U.S. Marshal will transport the defendant forthwith to the Southern District of New York. Defendant is remanded to custody. Rule 5 deadline set for 11/2/2016. Status Conference set for 11/2/2016 04:00 PM in LV Courtroom 3D before Magistrate Judge Cam Ferenbach. (no image attached) (Copies have been distributed pursuant to the NEF – JAR) (Entered: 10/21/2016)
10/19/2016	<u>3</u>	11	WAIVER of Rule 5(c)(3) Hearings as to Khalil Evans. (ADR) (Entered: 10/21/2016)
10/19/2016	<u>4</u>	12	COMMITMENT TO ANOTHER DISTRICT as to Khalil Evans. Defendant committed to District of Southern District of New York. Signed by Magistrate Judge Cam Ferenbach on 10/19/16. (Copies have been distributed pursuant to the NEF – ADR) (Entered: 10/21/2016)
10/19/2016	<u>5</u>	13	ORDER OF DETENTION as to Khalil Evans. Defendant shall be detained pending further proceedings. Signed by Magistrate Judge Cam Ferenbach on 10/19/16. (Copies have been distributed pursuant to the NEF – ADR) (Entered: 10/21/2016)
10/19/2016	<u>6</u>	14	DESIGNATION of Retained Counsel and Appearance Praecipe as to Khalil Evans. (ADR) (Entered: 10/21/2016)
11/01/2016	7	15	MINUTE ORDER IN CHAMBERS of the Honorable Magistrate Judge Cam Ferenbach, as to Khalil Evans on 11/1/2016. By Deputy Clerk: <i>J. Ries</i> . Confirmation having been made with the U.S. Marshal that the defendant has departed the District of Nevada, ORDERED that the status check hearing set for 11/2/16 at 4:00 p.m. is VACATED. (no image attached) (Copies have been distributed pursuant to the NEF – JAR) (Entered: 11/01/2016)

11/01/2016			(Court only) **NON-PUBLIC** Terminated Deadlines/Hearings as to Khalil Evans (JAR) (Entered: 11/01/2016)
11/13/2016	<u>8</u>	16	TRANSMITTAL to the Southern District of New York regarding Rule 5c documents in case as to Khalil Evans. Docket sheet and documents transmitted to NYSD electronically via email. (MMM) (Entered: 11/13/2016)

FILED
UNDER
SEAL

FILED _____ RECEIVED _____
ENTERED _____ SERVED ON _____
COUNSEL/PARTIES OF RECORD _____

OCT 19 2016

CLERK US DISTRICT COURT
DISTRICT OF NEVADA

BY: _____ DEPUTY _____

BY: _____ DEPUTY

2:14 MJ-711-VCF

DANIEL HERZOG, being duly sworn, deposes and says that he is a Detective with the New York City Police Department ("NYPD"), and charges as follows:

(Conspiracy to Commit Wire Fraud)

2. It was a part and object of the conspiracy that KHALIL EVANS, the defendant, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343, to wit, EVANS, and others

known and unknown caused the transmission of interstate wire communications in connection with the fraudulent purchase of goods from retail store locations of a technology company ("Company-1") throughout the United States.

Overt Acts

3. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about March 12, 2016, MIGUEL BAHADUR¹ entered a Company-1 store located in New York, NY.

b. On or about March 15, 2016, KHALIL EVANS, the defendant, entered a Company-1 store located in Corte Madera, CA.

c. On or about March 31, 2016, RODION SADYKOV entered a Company-1 store located in White Plains, NY.

(Title 18, United States Code, Section 1349.)

The bases for my knowledge and the foregoing charges are, in part, as follows:

4. I have been a Detective with the NYPD for approximately two years. During this time, I have conducted numerous investigations into various financial frauds, including wire fraud, and am familiar with the way such crimes are committed.

5. I have been involved in the investigation of the offenses charged in this Complaint. I am familiar with the facts and circumstances set forth below from my personal participation in the investigation, including my review of pertinent documents, and from my conversations with other law enforcement agents and other individuals. Because this affidavit is submitted for the limited purpose of demonstrating

¹On October 13, 2016, the Honorable Barbara Moses signed a sealed complaint (the "BAHADUR Complaint") which charged MIGUEL BAHADUR, LOREN SADIKOV, RODION SADYKOV, RONNY YACOB, and FNU LNU with their participation in this conspiracy under docket number 16 Mag. 6583. The BAHADUR Complaint is attached as Exhibit A and incorporated herein by reference.

probable cause, I have not included details of every aspect of the investigation. Where I relate statements, conversations, and actions of others, those statements, conversations, and actions are related in substance and in part, except where otherwise noted.

The Scheme

6. Based on my interviews with Company-1 personnel, I have learned, among other things, the following:

a. Stores operated by Company-1 do not have traditional cash registers or checkout lanes. Instead, certain store employees are equipped with a device containing a barcode scanner to ring up items for sale and a magnetic card reader for swiping credit and debit cards, as well as touchscreen input interfaces on both sides of the device. One side of the device is used by the store employee, who can make inputs about the type of transaction, such as whether the customer is paying by cash, credit, or debit card. The other side of the device is presented to the customer, who is asked to input certain information, such as an email address to which a receipt for the transaction can be sent, as well as to sign for a credit card transaction or to input a Personal Identification Number ("PIN") for a debit card transaction.

b. The payment device is connected to the Internet through a Wi-Fi network operated by each Company-1 store. When a customer swipes a credit or debit card to initiate payment for a transaction, the device communicates through the Internet with the credit or debit card company to determine whether payment will be authorized.

7. Based on my participation in the investigation, including my review of video surveillance obtained from Company-1 stores, I have learned, among other things, that:

a. From in or about March 2016 through the present, KHALIL EVANS, the defendant, and an unknown number of co-conspirators, have perpetrated a scheme to defraud Company-1 by manipulating payment devices at Company-1 stores, including multiple Company-1 stores in the Southern District of New York, see supra ¶ 3, to indicate that payment has been made for large purchases of technology equipment, when in fact no payment has been made. The scheme involves a large number of co-conspirators working together to identify weak points in the Company-1 sales process and to distract Company-1 employees in order to effectuate the fraud.

b. Principally, two co-conspirators identify a Company-1 store employee and engage that employee in conversation. After some period of time, one co-conspirator expresses interest in purchasing a number of high-value items, usually laptops and/or cellular phones. The Company-1 store employee will begin to process the transaction on the handheld device. The co-conspirator indicates to the employee that he would like to pay for the goods with a credit card, which he provides to the Company-1 store employee. The employee swipes the credit card on the device, which connects to the Internet to obtain payment approval from the credit card company.

c. When the device indicates that credit card payment has been approved, the Company-1 store employee hands the device to the co-conspirator so that he can sign on the touchscreen and complete the purchase. At that moment, a second co-conspirator distracts the Company-1 store employee, typically moving to one side in order to force the store employee to look away from the first co-conspirator. With the store employee distracted, the first co-conspirator flips over the payment device, and—using the side of the device meant for Company-1 store employees—changes the transaction from a credit card purchase to a cash transaction. While the Company-1 store employee is still distracted, the co-conspirator inputs on the payment device that cash has been paid for the transaction, so the device shows that the purchase has been completed. The co-conspirator then returns the device to the Company-1 store employee, and both co-conspirators exit the store with the fraudulently-obtained merchandise.

EVANS's Participation in the Scheme

8. Based on my review of video surveillance obtained from Company-1 stores during the times of transactions believed to be connected with the charged scheme, as well as my comparison of that video surveillance with photographs of KHALIL EVANS, the defendant, and other co-conspirators available to law enforcement through various government databases, I have learned, among other things, that:

a. On or about March 15, 2016, EVANS, MIGUEL BAHADUR, RODION SADYKOV, and another co-conspirator not named as a defendant herein ("CC-1") executed the above-described scheme at a Company-1 store located in Corte Madera, CA, and fraudulently obtained \$5,076.73 in merchandise.

b. The transaction was initiated when EVANS and BAHADUR approached a Company-1 store employee in order to make a

purchase. While executing the above-described scheme during that transaction, BAHADUR manipulated the payment device, while EVANS distracted the Company-1 store employee. SADYKOV and CC-1 operated as lookouts during the execution of the above-described scheme.

WHEREFORE, the deponent respectfully requests that a warrant be issued for the arrest of KHALIL EVANS, the defendant, and that he be arrested and imprisoned or bailed, as the case may be.


DANIEL HERZOG

Detective

New York City Police Department

*ATTESTED TO TELEPHONICALLY
ON 10-19-16 AT 10:50 AM*

Sworn to before me this
19th day of October, 2016



THE HONORABLE HENRY B. PITMAN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

MIME-Version:1.0
From:cmecf@nvd.uscourts.gov
To:cmecfhelpdesk@nvd.uscourts.gov
Bcc:
--Case Participants: Thomas F. Pitaro (kristine.fumolaw@gmail.com), Kilby C. Macfadden (kilby.macfadden@usdoj.gov, usanv.team2@usdoj.gov, veronica.criste@usdoj.gov, wfoley@usdoj.gov), Magistrate Judge Cam Ferenbach (vcf_chambers@nvd.uscourts.gov)
--Non Case Participants: CJA Administrators (nvd_cja@nvd.uscourts.gov), Pretrial Services - NV (nvptml_cmecf_notice@nvpt.uscourts.gov), US Attorney - Criminal Division, General mailbox (usanv.ecfcrim@usdoj.gov), US Marshal (nevada.vcalendar@usdoj.gov)
--No Notice Sent:

Message-Id:7847968@nvd.uscourts.gov
Subject:Activity in Case 2:16-mj-00711-VCF USA v. Evans Initial Appearance - Rule 5(c)(3) (fka Rule 40)
Content-Type: text/html

United States District Court

District of Nevada

Notice of Electronic Filing

The following transaction was entered on 10/21/2016 at 8:42 AM PDT and filed on 10/19/2016

Case Name: USA v. Evans
Case Number: 2:16-mj-00711-VCF
Filer:
Document Number: 2(No document attached)

Docket Text:

MINUTES OF PROCEEDINGS – Initial Appearance in Rule 5(c)(3) Proceeding as to Khalil Evans held on 10/19/2016 before Magistrate Judge Cam Ferenbach. Crtrm Administrator: J. Ries; AUSA: Kilby MacFadden; Def Counsel: Dustin Marcello for Thomas Pitaro; Court Reporter/FTR #: 3:33 – 3:40; Courtroom: 3D; Defendant is present in custody. ORDERED that the complaint is UNSEALED. Defense counsel retained. Waiver of Identity Hearing filed. ORDERED defendant identified as named defendant in the complaint and is held to answer in the Southern District of New York. Government seeks detention and the defendant requests the detention hearing be held in the Southern District of New York, which is GRANTED. The U.S. Marshal will transport the defendant forthwith to the Southern District of New York. Defendant is remanded to custody. Rule 5 deadline set for 11/2/2016. Status Conference set for 11/2/2016 04:00 PM in LV Courtroom 3D before Magistrate Judge Cam Ferenbach.(no image attached) (Copies have been distributed pursuant to the NEF – JAR)

2:16-mj-00711-VCF-1 Notice has been electronically mailed to:

Thomas F. Pitaro kristine.fumolaw@gmail.com

Kilby C. Macfadden Kilby.macfadden@usdoj.gov, USANV.team2@usdoj.gov, WFoley@usdoj.gov, veronica.criste@usdoj.gov

2:16-mj-00711-VCF-1 Notice has been delivered by other means to:

UNITED STATES DISTRICT COURT

for the

United States of America

v.

Khalil Evans

Defendant

Case No. 2:16-MJ-711-VCFCharging District's Case No. 16-MJ-6680WAIVER OF RULE 5 & 5.1 HEARINGS
(Complaint or Indictment)I understand that I have been charged in another district, the (name of other court) New York.

I have been informed of the charges and of my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;
- (3) production of the warrant, a certified copy of the warrant, or a reliable electronic copy of either;
- (4) a preliminary hearing within 14 days of my first appearance if I am in custody and 21 days otherwise — unless I am indicted — to determine whether there is probable cause to believe that an offense has been committed;
- (5) a hearing on any motion by the government for detention;
- (6) request transfer of the proceedings to this district under Fed. R. Crim. P. 20, to plead guilty.

I agree to waive my right(s) to:

- ☒ an identity hearing and production of the warrant.
- ☒ a preliminary hearing.
- ☒ a detention hearing.
- ☒ an identity hearing, production of the warrant, and any preliminary or detention hearing to which I may be entitled in this district. I request that those hearings be held in the prosecuting district, at a time set by that court.

I consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

Date: 10/19/16

FILED ENTERED	RECEIVED SERVED ON COUNSEL/PARTIES OF RECORD
OCT 19 2016	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY

Defendant's signature

Signature of defendant's attorney

Dustin Marcello

Printed name of defendant's attorney

UNITED STATES DISTRICT COURT

for the

District of NEVADA

United States of America)

v.)

Case No. 2:16-mj-00711-VCFKHALIL EVANS)*Defendant*)

Charging District's

Case No. 16mag6680

COMMITMENT TO ANOTHER DISTRICT

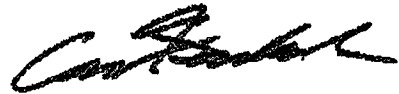
The defendant has been ordered to appear in the Southern District of New York.

The defendant may need an interpreter for this language: _____.

The defendant: ☐ will retain an attorney.☒ is requesting court-appointed counsel.

The defendant remains in custody after the initial appearance.

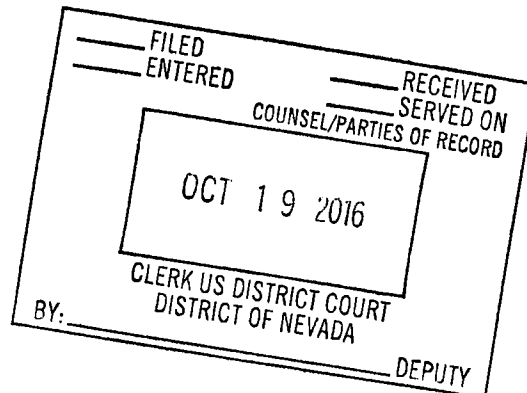
IT IS ORDERED: The United States marshal must transport the defendant, together with a copy of this order, to the charging district and deliver the defendant to the United States marshal for that district, or to another officer authorized to receive the defendant. The marshal or officer in the charging district should immediately notify the United States attorney and the clerk of court for that district of the defendant's arrival so that further proceedings may be promptly scheduled. The clerk of this district must promptly transmit the papers and any bail to the charging district.

Date: 10/19/16


Judge's signature

CAM FERENBACH, U.S. MAGISTRATE JUDGE

Printed name and title



UNITED STATES DISTRICT COURT

for the

District of NEVADA

United States of America)

v.)

Case No. 2:16-mj-00711-VCF)

KHALIL EVANS)

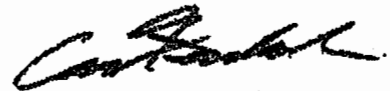
Defendant)

ORDER SCHEDULING A DETENTION HEARING

A detention hearing in this case is scheduled as follows:

Place: Southern District of New York	Courtroom No.: AS ORDERED
	Date and Time: AS ORDERED

IT IS ORDERED: Pending the hearing, the defendant is to be detained in the custody of the United States marshal or any other authorized officer. The custodian must bring the defendant to the hearing at the time, date, and place set forth above.

Date: Oct 19, 2016*Judge's signature*

CAM FERENBACH, U.S. Magistrate Judge

Printed name and title

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
OCT 19 2016	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Khalil Evans

Defendant.

Case # 2:16-MJ-711-VCF

DESIGNATION OF RETAINED COUNSEL
AND APPEARANCE PRAECIPE

The undersigned defendant hereby appoints Pitaro & Fumo - Dustin Marcello, esq
to appear generally for him/her as his/her attorney and counselor at law throughout all proceedings in
this case unless this appointment be sooner revoked.

DATED: 10/19/16

[Signature]
Defendant's signature

APPEARANCE PRAECIPE

I hereby accept the foregoing appointment and request the Clerk to enter my appearance as
attorney for the defendant, in response to the foregoing designation.

I personally will appear at all proceedings in this case. I understand that no other attorney
may appear in my place unless prior permission is granted by the Court, and then ONLY when
consent of the defendant has been obtained and filed with the Clerk.

I further state that I realize it is my responsibility to keep the defendant advised as to all
proceedings in this case and to inform him/her when to appear in Court, and also to notify the Clerk of
any change in my address or telephone number.

DATED: 10/19/16

[Signature]
Attorney's signature

601 Las Vegas Blvd
Attorney's address

Las Vegas, NV 89121

(702) 20 474-7554
Attorney's phone number

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
OCT 19 2016	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

Revised 6/15/09

MIME-Version:1.0
From:cmecf@nvd.uscourts.gov
To:cmecfhelpdesk@nvd.uscourts.gov
Bcc:
--Case Participants: Kilby C. Macfadden (kilby.macfadden@usdoj.gov, usanv.team2@usdoj.gov, veronica.criste@usdoj.gov, wfoley@usdoj.gov), Thomas F. Pitaro (kristine.fumolaw@gmail.com), Magistrate Judge Cam Ferenbach (vcf_chambers@nvd.uscourts.gov)
--Non Case Participants: US Attorney - Criminal Division, General mailbox (usanv.ecfcrim@usdoj.gov), US Marshal (nevada.vcalendar@usdoj.gov), US Probation - Investigation Docs (nvpdb_investigation_docs@nvp.uscourts.gov), US Probation - Supervision Docs (nvpdb_supervision_docs@nvp.uscourts.gov)
--No Notice Sent:

Message-Id:7863240@nvd.uscourts.gov
Subject:Activity in Case 2:16-mj-00711-VCF USA v. Evans Minute Order
Content-Type: text/html

United States District Court

District of Nevada

Notice of Electronic Filing

The following transaction was entered on 11/1/2016 at 2:52 PM PDT and filed on 11/1/2016

Case Name: USA v. Evans
Case Number: 2:16-mj-00711-VCF
Filer:
Document Number: 7(No document attached)

Docket Text:

MINUTE ORDER IN CHAMBERS of the Honorable Magistrate Judge Cam Ferenbach, as to Khalil Evans on 11/1/2016. By Deputy Clerk: J. Ries. Confirmation having been made with the U.S. Marshal that the defendant has departed the District of Nevada, **ORDERED** that the status check hearing set for 11/2/16 at 4:00 p.m. is **VACATED**. (no image attached) (Copies have been distributed pursuant to the NEF - JAR)

2:16-mj-00711-VCF-1 Notice has been electronically mailed to:

Thomas F. Pitaro kristine.fumolaw@gmail.com

Kilby C. Macfadden Kilby.macfadden@usdoj.gov, USANV.team2@usdoj.gov, WFoley@usdoj.gov, veronica.criste@usdoj.gov

2:16-mj-00711-VCF-1 Notice has been delivered by other means to:

**UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
DISTRICT OF NEVADA**

LLOYD D. GEORGE U.S. COURTHOUSE
333 LAS VEGAS BOULEVARD SOUTH
LAS VEGAS, NEVADA 89101
(702) 464-5400

LANCE S. WILSON
DISTRICT COURT EXECUTIVE/CLERK

CYNTHIA JENSEN
CHIEF DEPUTY CLERK, LAS VEGAS

JAKE HERB
CHIEF DEPUTY CLERK, RENO

November 14, 2016

Clerk, U.S. District Court
Southern District of New York
500 Pearl St
New York, NY 10007
CriminalTransfer@nysd.uscourts.gov

RE: USA v. Khalil EVANS
Your Case No. 16mag6680
Our NVD Case No. 2:16-mj-00711-VCF

Dear Clerk:

Please be advised that the above-referenced defendant was arrested in the District of Nevada (Las Vegas) on a warrant issued by the Southern District of New York and appeared before The Honorable Cam Ferenbach, United States Magistrate Judge, on October 19, 2016.

The Defendant has been detained and remanded to the custody of the United States Marshal for transport to the Southern District of New York. Enclosed are all documents completed in this district.

Thank you.

LANCE S. WILSON, Clerk
United States District Court

/s/ M. Morrison
Deputy Clerk

Enclosures